

PROPOSED MANITOBA CODE OF HUMAN RIGHTS

SUMMARY

Manitoba Human Rights Commission

May 1984

PROPOSED MANITOBA CODE OF HUMAN RIGHTS

The Manitoba Human Rights Act has served the cause of human rights protection in this Province reasonably well, but experience with its administration since 1974, when the last major revision took place, has shown the need for many changes and improvements. The pioneering legislation of Ontario, upon which the Manitoba Act was modelled, has now been replaced by a much more sophisticated code of human rights, and Quebec has recently adopted an even more effective law. If Manitoba is to maintain its reputation as a place where human rights are well protected, it is necessary that our legislation also be brought up to date.

When the present Chairperson of the Manitoba Human Rights Commission was appointed in February 1982, it was with a mandate from the Attorney-General, among other tasks, to supervise the design of improved legislation for this Province. A special committee of the Commission was struck in the summer of 1982 to carry out this challenging assignment.

The Legislation Committee drew assistance from many sources. It began with proposals prepared by members of a previous Commission committee, chaired by then Vice-Chairperson Barré Hall. It studied the legislation of several other jurisdictions, notably Ontario, Quebec, and Canada, for comparative insights. The experience and ideas of our own staff were carefully considered. Human rights experts from other jurisdictions were consulted on particular aspects of the legislation. Authorities from other related departments of the Government of Manitoba were also consulted. During January 1983, public hearings were held in Winnipeg, Brandon, Stenbach, Beausejour, Thompson, and The Pas, asking for public opinion about improving the legislation. The public response was good, more than 200 presentations being received, either at the hearings themselves or by separate written or verbal communications.

The product of these consultations, and of the Legislation Committee's lengthy internal deliberations, is a proposal for total revision of the Manitoba legislation, in the form of a new Manitoba Code of Human Rights. The proposed Code was then reviewed and approved by the Commission. This commentary describes the highlights of that proposal.

General Nature of Proposed Changes

The new Manitoba Code of Human Rights will, if enacted, be the most advanced of its kind in the country, and probably on the continent. The bulk of the changes proposed are unspectacular.

in themselves, however. The new Code will not depart from the general approach to human rights protection that has evolved across North America since World War II. The changes proposed are in the nature of improvements on that basic pattern. It is the total weight of all these needed changes, rather than the overwhelming significance of any one of them, that has necessitated a complete re-writing of the legislation.

Paramountcy of Code: s.49

The new Code would have paramountcy over all other Manitoba statutes and laws.

While this would represent a change in present law, it would not be a serious departure from existing principles. The present Act already takes priority over statutes enacted before it was passed. However, those statutes which happen to have been enacted after the legislation are immune from it. This creates the strange situation that a person's rights and duties under a particular statute may depend on the entirely accidental factor of when it was enacted. Those who come to the Commission with complaints about discriminatory laws have difficulty understanding the basis for so arbitrary a distinction--and with good reason. Our proposal would eliminate this anomaly, and cause all laws to be uniformly treated.

Special situations may occasionally arise in which the Legislature wishes to exempt the provisions of some new statute from the operation of the Code. The proposal would, like the Canadian Charter of Rights and Freedoms, permit this to be done whenever the Legislature stated explicitly that the new law should apply notwithstanding the Code.

Impartiality of Commission: ss. 1 & 2

Among the most important improvements recommended are several that relate to the actual and apparent impartiality of the Commission. No human rights agency can carry out its functions effectively if it does not have the confidence of the community it serves. Persuasion is the Commission's most effective tool, not only in its educational role, but also in the processing of complaints, most of which are settled rather than taken to adjudication.

If those with whom we are dealing suspect our objectivity, our ability to persuade will be seriously undermined. Members of the public would be understandably skeptical of a body like ours if they believed that it was our obligation to "take orders" from the government of the day, rather than to apply consistent principles and exercise independent judgment. In practice, governments of Manitoba, whatever their political stripe, have generally avoided attempting to influence the Commission. The

public has no way of knowing this, however. What the public sees is a Commission whose members hold office at the pleasure of the current government and have, with the last two changes of government, been turned out of office on a wholesale basis. This does not foster confidence in the Commission's independence.

This problem is not peculiar to Manitoba. Human rights commissions across Canada have been concerned for some time about the risk to their actual and apparent impartiality inherent in the method of appointing their members. At its annual meeting in June 1982 the Canadian Association of Statutory Human Rights Agencies passed a resolution calling for fixed term appointments for commission members, and responsibility of Commissions to Legislative Assemblies.

The Commission is accordingly recommending that its members be appointed, on a staggered basis, for terms of three years (four years in the case of the Chairperson), subject to be removed at any time by resolution of the Legislative Assembly. The recommendation differs from the CASHRA resolution in that it proposes to preserve the connection between the Commission and the Attorney-General, so far as reporting is concerned. This is because the Attorney-General's Department seems best equipped in view of its other responsibilities to provide the necessary administrative support for a body like the Commission, which is so closely linked with other legal institutions. However, in order to remove any scintilla of doubt as to the Commission's impartiality, the CASHRA resolution has been followed by suggesting that the Commission should, like the Ombudsman, be responsible to a committee of the Legislative Assembly so far as appointment and dismissal are concerned.

Impartiality of Boards of Adjudication: ss. 4 & 24

At least as important as protecting the impartiality of the Commission is the need to insulate the adjudication process from all possibility of suspicion or influence. Boards of adjudication are the bodies that decide, in the final analysis, on the validity of human rights complaints which the Commission has been unable to settle or otherwise dispose of to the satisfaction of the parties. Both actual and apparent impartiality is as vital to effective adjudication as it is to the work of any court.

While adjudications in this Province have been generally free, in practice, from outside influence, there is a potential for partiality in the fact that adjudicators are nominated, on a case-by-case basis, by a Minister of the Government. This leaves room for the cynical to challenge the objectivity of the process, particularly where complaints against the government itself are involved. If the adjudication process is to win the complete respect of those it serves, it is important to remove the risk and the appearance of selective appointments to adjudication boards.

With this goal in view, the Commission is recommending a procedure for appointing qualified and independent persons to the adjudication panel that parallels the proposed method for appointing commissioners. It is also proposed that one member of the adjudication panel be designated as Chief Adjudicator, with responsibility to select particular boards of adjudication from the panel, and generally to oversee the effective operation of the adjudication process. Adjudicators would continue, as under the present legislation, to be part-time appointees. This would also be the case for the Chief Adjudicator, at least until such time as case-loads grow much greater than at present. It is anticipated that supervision by a Chief Adjudicator would significantly expedite the hearing process, as well as enhancing its actual and apparent impartiality.

Private Adjudication: s.23

Under the present legislation access to the adjudication process is under the exclusive control of the Commission. Complainants have often objected to the fact that if the Commission declines to request adjudication of their particular complaint, they have no appeal or recourse available.

In order to provide an effective recourse for complainants whose complaints the Commission does not support, it is proposed that complainants be allowed to request the Chief Adjudicator to appoint a Board of Adjudication in cases where complaints have been dismissed by the Commission, or have not been acted upon to the satisfaction of the complainant within one year from the date of the complaint. In order to avoid the possibility of frivolous complaints being referred to adjudication in this manner, the Chief Adjudicator would be given a discretion as to whether a Board of Adjudication should be appointed.

Fairness to Respondents: ss. 19, 17(4), 32

Several of the changes being recommended are designed to ensure fairness toward respondents. It is proposed, for example, to give the respondent the right to file a written reply with the Commission in response to the complaint. This would ensure that Boards of Adjudication would have access to both sides of the story from the moment of their appointment.

Another significant innovation, so far as respondents' rights are concerned, is the recommendation that when the Commission renders an advisory opinion about the interpretation of the legislation, in response to an inquiry from a potential respondent, no liability can be imposed on anyone who acts in reliance on the opinion.

Probably the most important proposal to improve the position of respondents is the recommendation that where a Board of Adjudica-

tion dismisses a complaint against a respondent, the Board should be empowered to award costs in favour of the respondent against the Commission or anyone else who has carriage of the complaint proceedings. Under the present legislation, the Commission and complainants may be awarded costs if a complaint is upheld by the Board, but respondents who successfully defend complaints do not have an equivalent right. The Commission is proposing that this basic inequity be removed from the legislation.

Miscellaneous Procedural Improvements

Numerous small changes are being recommended with a view to clarifying procedures and making them more effective. These include provisions concerning time limits, delays in adjudication, provision of documentation for Boards of Adjudication, expanded remedial powers of Boards, explicit procedures for obtaining evidence under warrant, more sharply defined powers of judicial review, the power of Boards to protect the identity of parties and witnesses, where fairness demands, pending final adjudication of the complaint, and elimination of the costly requirement to keep verbatim transcripts of hearings. These are changes which, while technical in nature, will have the cumulative effect of rendering the investigation and adjudication of human rights complaints at once more efficient and more equitable.

Prohibited Grounds of Discrimination: s.6

For the most part, it is recommended that the prohibited grounds of discrimination remain the same as those prohibited under the present Act. There are a few changes proposed, however.

The word "race", with all its fallacious and offensive connotations, has been replaced by the broader, more accurate, and less offensive term "ancestry, including colour and alleged race". "Creed" has been added to "religion" to ensure that those whose beliefs might not constitute a religion in the narrow sense of the term (atheists, for example) are protected. "Gender" has been added to "sex" to ensure that a narrow definition of the latter term would not exclude necessitous cases (sex change cases, for example). "Pregnancy or related circumstances" has been added, because there has been some doubt expressed as to whether or not these matters could be considered to constitute discrimination on the basis of sex. "Sexual orientation" has been included to remove the doubt created by a recent Board of Adjudication decision that discrimination on the basis of one's intimate life style is unacceptable. The addition of "social status" is being proposed to make it clear that discrimination against "lower classes", "your kind", etc. is prohibited. "Criminal record or charges" should be included because not everyone appears to understand that it is unlawful to discriminate without reasonable cause against those who have committed a crime and paid their penalty, or have merely been charged with a crime. Because a recent decision of the Canadian Human Rights Commission suggested

that the term "ethnic" would not include matters related to the language one speaks, it is proposed that the Code prohibit discrimination based on "ethnic or linguistic background or origin". Finally, the words "association or activity" should be added to "political belief" in order to avoid a narrow interpretation which some have placed on the latter phrase.

Systemic Discrimination: s.6(4)

Some of the most hurtful forms of discrimination are unintended. They flow from "systemic" factors: the fact that a particular enterprise is organized in such a manner that it happens to have the effect of treating women or Native Indians, or older persons, or the handicapped, less well than others. It might happen, for example, that wheelchair users are unable to gain entry to a public park or museum because there are steep stairs at the entrance without a satisfactory ramp or lift for wheelchairs. Or an employer might require employees to wear a uniform of a type that cannot be practically worn by a pregnant woman. Or the work timetable of a large employer might call for an employee to be on the job at a time when that employee's religious beliefs prohibit working. In none of these cases is there an intention to discriminate per se; the discrimination is an unintended consequence of facilities or routines planned with other things in mind.

Recent rulings by the Ontario Court of Appeal and the Federal Court of Canada have indicated that intention to discriminate is a necessary element to liability under most existing human rights statutes in Canada. These rulings have seriously hampered the ability of human rights commissions across the country to deal effectively with "systemic" discrimination.

The Commission is recommending that these legal doubts be erased by a provision explicitly stating that intention to discriminate is not a requirement for liability in the case of a respondent who or whose employees are aware, or ought reasonably to be aware, of the discriminatory effect.

Equal Pay for Work of Equal Value: s. 9(4)

In the years since Manitoba's Human Rights Act was first enacted, a realization has grown that the historically entrenched systemic discrimination against women in employment cannot be effectively counteracted without laws requiring equal pay for work which, although different in character from other work, is of equal value. The Canadian Human Rights Act has led the way in Canada on this question. The Federal Commission, profiting from extensive experience in various American jurisdictions, has gone a long way to developing fair and effective techniques for administering such a law. Since much employment is subject to provincial rather than federal jurisdiction, these protections cannot be extended to the entire work force unless the provinces enact similar laws. Numerous presentations to the public

hearings held by the Manitoba Commission urged that Manitoba take this step. After consultations with both federal and provincial experts on the subject, the Commission is convinced that the principle of equal pay for work of equal value should be incorporated in the legislation of this Province. We are, in fact, recommending that it be introduced with respect to all grounds of prohibited discrimination.

Successful implementation of such a scheme calls for the development of techniques and forms of expertise new to provincial experience, and this will have cost implications. It is proposed, therefore, that the scheme be brought into operation on a gradual basis, depending upon the availability of resources and the development of expertise, but with a five-year overall deadline.

Affirmative Action and Contract Compliance: s.s. 6(6), 45 & 46

Many members of certain minority groups suffer ongoing disadvantage because of historic discrimination against members of their groups. It has long been recognized in human rights work that a degree of special treatment for the members of such groups is justified in order to help equalize the historic imbalance. This special treatment has taken the form of "affirmative action" plans (designed to ensure that persons from minority groups have access to services, facilities and employment opportunities in numbers proportionate to their representation in the general population), and other "special programs".

The present Act permits such affirmative action and special programs to be carried out if they have been approved by the Commission, and the proposal calls for a continuation of this arrangement.

There appears to be growing public support for mandatory affirmative action programs. With one important exception, the Commission does not support such compulsory measures; persuasion and good example are likely to produce better equalization measures in the long run. The Commission does recommend, however, that Boards of Adjudication be empowered to order affirmative action or other special programs where that would be an appropriate remedy in cases where discrimination against members of the group in question by the particular respondent has been established.

The term "contract compliance" refers to provisions in government contracts calling for affirmative action or other special programs in connection with work or undertakings to which the contracts in question relate. In the United States, there has been considerable progress in developing affirmative action quotas for insertion in such government contracts. In Canada, however, there has not yet been much preparation of this kind. It is accordingly impossible to propose an explicit contract compliance mechanism for the Government of Manitoba at this stage. Nevertheless, the Commission believes that the time is overdue for a recognition by the Manitoba Legislature

of the principle of contract compliance, and for a beginning on the meticulous planning that must precede the application of the Principle. The Commission is therefore proposing that the Code provide for regulations permitting gradual implementation of contract compliance as circumstances allow.

Education and Related Activities: ss. 17, 43 & 44

The roots of discrimination are deeply embedded in peoples' thought processes. In recognition of this fact, human rights agencies regard education as central to everything they do. Several aspects of the present proposals are aimed at strengthening the Commission's educational efforts.

The issuance of advisory opinions, though a longstanding practice of the Commission, receives its first formal recognition in the proposals. Advice and assistance in the design and implementation of affirmative action and special programs is also proposed.

Experience has shown that when economic conditions become straitened, it is usually the education budgets of human rights commissions that are forced to suffer the brunt of financial restraint. As an offset to this tendency to discriminate against the educational side of human rights work, it is recommended that the legislation require the Commission to allocate at least 20 percent of its operating budget to education and outreach functions.

An important new proposed role for the Commission would be to scrutinize Manitoba laws with a view to reporting on any provisions which appear to contravene the Code, the Canadian Charter of Rights and Freedoms, or any of Canada's international obligations.

Harassment: s.16

Although it is quite well established in the case law, it is not explicitly stated in the present legislation that harassment of persons on the basis of their sex, ancestry, or other group factor, constitutes discrimination. The Ontario legislation has now made this explicit, and it is recommended that the new Manitoba Code do so also. It is proposed that sexual harassment be defined, as it is in the Ontario Code, and that it also be made clear that harassment on the basis of other prohibited group factors is also a contravention of the Code.

Hate Literature: s.15

Undoubtedly the most controversial subject considered by the Commission in connection with the proposed new Code of Human Rights relates to racist propaganda and other forms of group-based insults. The Commission received a number of briefs from the public, representing a wide range of views on the subject, and our own internal discussions were lengthy and intense.

The current Manitoba legislation prohibits statements which discriminate in themselves, indicate an intention to discriminate, or tend to expose others to hatred. Of the many complaints the Commission receives about insults based on group stereotypes, few are so extreme as to violate these provisions. They often do expose persons or groups to ridicule or contempt, but that is not enough to constitute a breach of the present legislation.

Some have proposed that the Manitoba Code, like the legislation in some other jurisdictions, should make it an offense to expose a person or group to ridicule or contempt. The Commission is of the view that this would constitute an undue interference with freedom of speech. Section 2(2) of the present legislation permits "the free expression of opinion upon any subject", and although we are not recommending the reenactment of that particular provision, it is now an inescapable constitutional guarantee under section 2 of the Canadian Charter of Rights and Freedoms. This guarantee might well stand in the way of including a prohibition on statements exposing others to ridicule or contempt in the Manitoba Code, but even if it did not the Commission believes that it would be wrong to devote our modest resources to the investigation and attempted eradication of jokes and minor invective. It should also be pointed out that "political belief, association, and activity" constitute prohibited grounds of discrimination. To prohibit contempt or ridicule aimed at the political views of others would be to blunt a weapon of political debate that is important to the operation of democracy.

The Commission gave serious consideration to recommending the complete abolition of prohibitions on insulting statements, but was ultimately persuaded that such absolute freedom of speech is not defensible in times when the propaganda of bigotry is wide-spread and insidiously effective. Extreme forms of hate literature and other grossly hurtful group insults cannot be permitted to flourish, if only because its existence does so much to counter the positive educational efforts our limited resources permit us to carry out.

Where, then, should the line of compromise between free speech and the protection of dignity lie? The Commission proposes that the legislation should prohibit statements that are discriminatory, indicate an intention to discriminate, expose to violence or hatred, or constitute an unreasonable affront to the human dignity of any person or group. In order not to interfere unduly with the right of free speech, it is proposed that in the case of statements which affront human dignity the truth of the statement in question should constitute a defense, with the onus of proving such truth lying upon the person who makes the statement.

Understandable Language

While a wide range of educational resources is needed to carry out the Commission's educational mandate, one of the more useful educational tools is the legislation itself. A statute which

explained the rights and obligations of Manitobans with respect to human rights in simple and straightforward language would be a great asset.

The fact that the Code must spell out these rights and obligations with sufficient completeness and precision to permit them to be legally enforced imposes serious limits on the simplicity that can be achieved, of course. Nevertheless, the Commission believes that the proposed new Code is written in a manner which the general public will find much easier to understand than the present Act.

Among several features of the proposal that are designed to help make it understandable is the preamble. Preambles have limited legal significance, and have fallen out of favour with the drafters of most modern legislation. However, because the Code itself will constitute an important educational resource, the Commission has proposed a fairly lengthy preamble, written in language that is more discursive than legalistic. It is the Commission's hope that this introductory explanation will assist those who consult the Code, especially non-lawyers, to understand the purposes it is intended to serve.

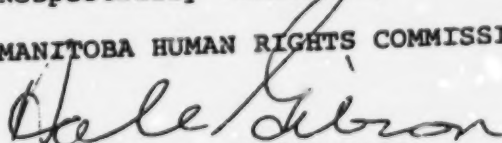
Conclusion

The proposals highlighted in this summary are the product of many months' work by members and staff of the Manitoba Human Rights Commission. The contribution of the Legislation Committee, consisting of Executive Director Darlene Germscheid, Education Officer Roger Young, and Commissioners Marek Debicki, Jill Oliver, Sally Schrofel, and Claudia Wright, chaired by Dale Gibson, was especially large.

The Commission believes that the enactment of the proposed new Code by the Legislature of Manitoba will place Manitoba where it ought to be, at the forefront of those jurisdictions willing to take practical steps to ensure recognition of the individual worth and dignity of every member of the human family.

Respectfully submitted,

MANITOBA HUMAN RIGHTS COMMISSION


Dale Gibson, Chairperson

Lawrie Cherniack, Vice-Chairperson
Regina Bueno
Hélène Bulger
Wayne Courchene
Marek Debicki
Unni Hordern

John Lane
Maureen Miller
Jill Oliver
Maureen Penner
Frank Whitehead
Claudia Wright

Number/ Numéro

2

PROPOSED
MANITOBA CODE OF HUMAN RIGHTS
OUTLINE

PREAMBLE

PART I: COMMISSION AND ADJUDICATION PANEL

1. (1) Commission
(2) Membership and Appointment
(3) Chairperson
(4) Terms of Appointment
(5) Transitional Terms
(6) Removal
(7) Vacancies
(8) Two Terms Only
(9) Transitional
(10) Remuneration
2. (1) Responsibility
(2) Annual Report
3. (1) Staff
(2) Executive Director
4. (1) Panel of Adjudicators
(2) Appointment and Term
(3) Removal
(4) Vacancies
(5) Chief Adjudicator

PART II: PROHIBITED DISCRIMINATION

5. Right to Equal Treatment
6. (1) Discrimination Defined
(2) Examples
(3) Failure to Make Reasonable Accommodation
(4) Unintended Discrimination
(5) Indirect and Concerted Discrimination
(6) Exception for Special Programs
7. Discrimination in Laws
8. (1) Discrimination in Service, Accommodation, etc.
(2) Matters Included
(3) Exception
9. (1) Discrimination in Employment
(2) Matters Included
(3) Contracts for Services Included
(4) Equal Pay for Work of Equal Value
(5) Personal Services in Private Homes
(6) Employment Agencies
(7) Unions and Associations
(8) Collective Agreement No Defence
(9) No Reduction of Wages or Termination

OUTLINE

10. Discrimination in Contracts
11. Exception for Employee Benefit Plans and Insurance
12. (1) Discrimination in the Rental of Premises
- (2) Exception
13. Discrimination in the Purchase of Real Property
14. (1) Restriction on Application Forms and Enquiries
- (2) Operation of Section Delayed in Some Cases
15. (1) Offensive Signs and Statements Prohibited
- (2) Definitions
- (3) Truth & Defence
16. (1) Harassment Prohibited
- (2) Harassment Defined

PART III: COMPLIANCE PROCEDURES

17. (1) Advisory Opinions
- (2) Revocation or Modification of Opinion
- (3) Challenge
- (4) Reliance on Opinion
18. (1) Complaints
- (2) Terminology
- (3) Consent of Alleged Victim
- (4) Commission May Initiate Complaint
- (5) Complaint Form
- (6) Time Limit for Filing
- (7) Time Limit for Serving
- (8) Time Extension
- (9) Amendment
19. Respondent's Reply
20. Commission Shall Investigate
21. (1) Investigation
- (2) Powers of Investigators With Warrant
- (3) Ex Parte Applications
- (4) Time Limit
- (5) Assistance of Peace Officers
- (6) Copies as Evidence
22. (1) Disposition of Complaints by Commission
- (2) Chief Adjudicator to Receive Complaint and Reply
- (3) Notification of Disposition
- (4) Notification of Failure to Dispose
- (5) Non-Compliance with Settlement
23. (1) Right of Complainant to Request Adjudication
- (2) Time Limit
- (3) Chief Adjudicator to Receive Complaint and Reply
- (4) Settlement of No Effect
- (5) Board of Adjudication
24. (1) Board of Adjudication
- (2) Members Chosen from Panel
- (3) Oath of Impartiality
25. (1) Parties to Adjudication
- (2) Adding Parties After Expiry of Time Limit
26. (1) Carriage of Proceedings by Commission
- (2) Carriage of Proceedings by Complainant

OUTLINE

27. Board to Receive Complaint and Reply
28. (1) Notice to Parties
(2) Public Notice
(3) Parties to be Named
29. (1) Order to Produce Documents
(2) Objection to Produce
30. (1) Public Hearing
(2) Participation of Parties
(3) Recording of Testimony and Submissions
(4) Interpreter
(5) View
31. Powers of Board of Adjudication
32. (1) Dismissal of Complaint by Board
(2) Where Complaint Established
(3) Consent Orders
(4) Costs
(5) Costs Against Complainant
(6) Orders in Writing
(7) No Expulsion of Incumbents
33. (1) Hearing to be Held within a Reasonable Time
(2) Delay by Board
(3) Replacement of Board
(4) Where Chief Adjudicator Member of Board
(5) Delivery of Record and Evidence
34. (1) Adjudication Orders Enforceable by Court
(2) Where Order Under Review
35. Finality of Adjudication
36. (1) Limited Judicial Review
(2) Procedure
(3) Time Limit
(4) Appeal
37. Court to Replace Board Where Jurisdiction Lacking
38. (1) Prosecution
(2) Remedial Orders
(3) Information
(4) Time Limits
39. Interim Injunction
40. (1) Reprisals
41. Onus of Proof
42. Unions and Associations

PART IV: EDUCATION, OUTREACH AND SPECIAL PROGRAMS

43. (1) Education and Outreach
(2) Education Budget
44. Scrutiny of Laws
45. (1) Affirmative Action and Special Programs Defined
(2) Approval by Commission
(3) Basis of Approval
(4) Recommendations and Assistance
46. Contract Compliance
47. (1) Special Provisions for Blind: White Canes
(2) Definition

OUTLINE

PART V: GENERAL

- 48. Crown Bound
- 49. (1) Paramountcy of Code
 - (2) Exception
 - (3) Duration of Declaration
 - (4) Amendment
- 50. (1) Confidentiality of Information
 - (2) Other Information
 - (3) Disclosure by Board
- 51. Cost of Administration
- 52. Technical Defects
- 53. Immunity from Liability
- 54. Regulations
- 55. Repeal of Human Rights Act
- 56. Transitional
- 57. Reference in Continuing Consolidation
- 58. Commencement

Preamble

THE MANITOBA CODE OF HUMAN RIGHTS

PREAMBLE

- (a) Manitobans recognize the individual worth and dignity of every member of the human family.
- (b) This principle underlies the Universal Declaration of Human Rights, the Canadian Charter of Rights and Freedoms, and other solemn undertakings, international and domestic, which Canadians honour.
- (c) Implicit in the principle is the right of all individuals to be treated in all matters solely on the basis of their personal merits, and to be accorded equality of opportunity with all other individuals.
- (d) To protect this right it is necessary to restrict unreasonable discrimination against individuals on the basis of stereotypes or generalizations about groups with which they are or are thought to be associated, and to ensure that reasonable accommodation is made for those with special needs.

Preamble

- (e) In view of the fact that past discrimination against certain groups has resulted in serious disadvantage to members of those groups, it is also necessary to provide for affirmative action plans and other special programs designed to overcome this historic disadvantage.
- (f) Since much discrimination is rooted in ignorance, education is essential to its eradication. But the right of every individual to be free from unreasonable discrimination is not an isolated right. It is an integral part of a larger body of fundamental rights and freedoms to which Manitobans are entitled, and is best understood in that broader context. It is therefore important that human rights educational programs be broad enough to enable Manitobans to understand all their fundamental rights and freedoms, as well as their corresponding duties and responsibilities to others.
- (g) An independent agency is needed to administer the legal protections established against unreasonable discrimination, and to develop and carry out appropriate educational programs. To ensure fair compliance with all requirements of the law relating to unreasonable discrimination, a process of impartial adjudication is also essential.

Preamble

- (h) These various protections for the human rights of Manitobans are of such fundamental importance that they merit paramount status over all ordinary laws of the province.

To accomplish these ends, Her Majesty, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Section 1

PART I

COMMISSION AND ADJUDICATION PANEL

Commission

1. (1) There shall continue to be a commission entitled "The Manitoba Human Rights Commission", referred to hereafter in this Code as "the Commission".

Membership and Appointment

- (2) The Commission shall be composed of thirteen members appointed by the Lieutenant-Governor in Council on recommendation by a committee of the Legislative Assembly chaired by the Attorney-General.

Chairperson

- (3) One member of the Commission shall be designated as Chairperson by the Lieutenant-Governor in Council on recommendation of the committee referred to in subsection (2), and shall, subject to subsections (6) and (7), hold office for four years from the date of appointment.

Section 1

Terms of Appointment

- (4) All members of the Commission other than the Chairperson shall, subject to subsections (5), (6) and (7), hold office for three years from the date of appointment.

Transitional Terms

- (5) Notwithstanding subsection (4), four of the first members appointed under subsection (2) shall be appointed for terms of two years only, and four others shall be appointed for terms of one year only, so that on every anniversary of the first appointments made under subsection (2) the terms of four members of the Commission shall expire.

Removal

- (6) Any member of the Commission, including the Chairperson, may be removed from office at any time by resolution of the Legislative Assembly if the Legislative Assembly is satisfied that there is good and sufficient cause for such removal.

Section 1

Vacancies

- (7) Where, due to removal, resignation, or death, anyone ceases to be a member of the Commission before the normal expiry of that member's term, the vacancy shall be filled for the unexpired portion of the term by a person appointed as soon as possible, but at least within three months of the vacancy occurring, in the manner described in subsection (2).

Two Terms Only

- (8) No person may be appointed to more than two consecutive terms, or partial terms, as a member of the Commission.

Transitional

- (9) Notwithstanding anything in this section, those persons who are members of the Commission on the coming into force of this Code shall continue to hold office until their successors are appointed.

Remuneration

- (10) The Lieutenant-Governor in Council shall determine the remuneration of the Chairperson and other members of the Commission.

Section 2

Responsibility

2. (1) Subject to the powers and responsibilities expressly vested in other authorities by this Code, the Commission is responsible to the Legislative Assembly for the administration of this Code.

Annual Report

- (2) The Commission shall submit annually to the Attorney-General a report of the activities of the Commission and of boards of adjudication during the preceding year, and the Attorney-General shall lay the report before the Legislative Assembly forthwith if it is in session, and if not within 15 days of the commencement of the next ensuing session.

Staff

3. (1) An Executive Director and such other officers and employees as may be required for the purpose of administering this Code shall be employed under the Civil Service Act.

Executive Director

- (2) The Executive Director of the Commission shall, in addition to any other duties that may be imposed by law, be responsible to the Commission for:

Section 3

- (a) acting as registrar of complaints received by the Commission and ensuring that they are dealt with according to the Code;
- (b) directing the day-to-day activities of the Commission's staff, with respect to complaint investigation, education and outreach, and all other responsibilities of the Commission under this Code; and
- (c) generally carrying out, in accordance with the Commission's policies and directives, the administration of this Code.

Panel of Adjudicators

4. (1) There shall exist a panel of human rights adjudicators, consisting of at least six and no more than ten persons who are not members of the Commission.

Appointment and Term

- (2) Members of the panel shall be appointed in the same manner that Commission members are appointed under section 1(2), and shall, subject to subsection (3), hold membership on the panel for a term of three years, and shall not be appointed to more than two consecutive terms.

Section 4

Removal

- (3) Any member of the panel may be removed from the panel at any time by resolution of the Legislative Assembly if the Legislative Assembly is satisfied that there is good and sufficient cause for such removal.

Vacancies

- (4) Whenever, due to removal, resignation, death or the completion of a term, a person ceases to be a member of the panel, a replacement may be appointed under subsection (2), and a replacement shall be appointed as soon as possible whenever the panel membership falls below six.

Chief Adjudicator

- (5) One member of the panel of human rights adjudicators shall be designated as Chief Adjudicator by the Lieutenant-Governor-in-Council on recommendation of the committee referred to in section 1(2), and shall continue to hold that position while he or she remains a member of the panel.

Section 5

PART II PROHIBITED DISCRIMINATION

Right to Equal Treatment

5. Every person has the right to equal treatment in respect of every law, practice, facility, service, activity and undertaking to which this Code applies, without discrimination in any form prohibited by this Part.

Discrimination Defined

6. (1) Discrimination means:
- (a) differential treatment of individuals on the basis of their actual or presumed membership in or association with some class or group of persons, rather than on the basis of personal merit;
 - (b) differential treatment of individuals or groups on the basis of any of the factors listed in subsection (2);
 - (c) differential treatment of individuals or groups on the basis of their actual or presumed association with other individuals or groups whose identity or membership is determined by any of the factors listed in subsection (2); or
 - (d) failure to make reasonable accommodation for the special needs of individuals or groups in accordance with subsection (3).

Section 6

Examples

- (2) Discrimination includes, without restricting the generality of subsection (1), differential treatment based on any of the following factors:
- (a) ancestry, including colour and alleged race;
 - (b) nationality or national origin;
 - (c) ethnic or linguistic background or origin;
 - (d) religion or creed, or religious belief, religious association or religious activity;
 - (e) age;
 - (f) gender or sex;
 - (g) pregnancy or related circumstances;
 - (h) sexual orientation or sexual preference;
 - (i) marital or family status;
 - (j) social status;
 - (k) source of income;
 - (l) criminal record or criminal charges;
 - (m) political belief, political association or political activity;
 - (n) physical or mental disability, or related circumstances, including reliance on a dog guide or other animal assistant, a wheelchair, or any other remedial appliance or device.

Section 6

Failure to Make Reasonable Accommodation

- (3) It is discrimination to fail to make reasonable accommodation in any law, practice, facility, activity or undertaking to which this Code applies, for the special needs of any individual or group if those special needs are based upon any of the factors listed in subsection (2).

Unintended Discrimination

- (4) Where the effect of a law, practice, facility, activity or undertaking to which this Code applies is to discriminate against any individual, it is discrimination notwithstanding the lack of intention to discriminate on the part of the person or persons responsible for the law, practice, facility, activity or undertaking, provided that such person, or his, her or their servants or agents, are aware, or ought reasonably to be aware, of the discriminatory effect.

Indirect and Concerted Discrimination

- (5) A person is responsible for discrimination whether the discriminatory act or omission is committed by that person directly or indirectly, alone or with another, in person or by servant or agent acting within the course of employment or the scope of authority.

Section 6

Exception for Special Programs

- (6) Notwithstanding anything in this section, it is not discrimination to make reasonable accommodation for special needs in accordance with subsection (3), or to adopt or carry out, in accordance with section 45, plans of affirmative action or other special programs designed to reduce, eliminate, or prevent disadvantage resulting from past discrimination to members of groups identified in section 45.

Discrimination in Laws

7. No statute, regulation, order-in-council, municipal bylaw, or other law within the constitutional authority of the Legislative Assembly shall discriminate against any person or group unless bona fide and reasonable cause exists for the discrimination.

Discrimination in Service, Accommodation, etc.

8. (1) No person shall discriminate, within the meaning of section 6, against any person or group with respect to any service, accommodation, facility, goods, right, licence, or privilege, available or accessible to the public or to a section of the public, unless bona fide and reasonable cause exists for the discrimination.

Section 8

Matters Included

- (2) For the purpose of subsection (1) the expression "service, accommodation, facility, goods, rights, licence, or privilege, available to the public or to a section of the public" includes, without restricting the generality of that expression, or limiting its application to private undertakings, any benefit provided and any practice, activity or undertaking carried out, by Her Majesty in the right of Manitoba, the Government of Manitoba, any municipal corporation or school district in Manitoba, any board or commission created by or subject in this regard to the laws of Manitoba, any school, university or other educational institution, or by the servants or agents of any of them within the course of employment or the scope of authority.

Exception

- (3) Nothing in subsection (1) prevents the denial or refusal of any service, accommodation, facility, goods, right, licence or privilege to a person who has not attained the age of majority if the denial or refusal is required or authorized by any law or regulation in force in Manitoba.

Section 9

Discrimination in Employment

9. (1) Subject to section 11, no person shall discriminate, within the meaning of section 6, against any person or group with respect to any aspect of employment or work, actual or potential, full-time or part-time, permanent, seasonal or casual, paid or unpaid, unless the discrimination is based upon bona fide and reasonable requirements or qualifications for the employment or work.

Matters Included

- (2) For the purposes of this section, the term "any aspect of employment or work" includes, without restricting its generality: training, the opportunity to work, advancement or promotion, seniority, working conditions, wages as defined by subsection 4(d) of this section, and all other benefits, terms and conditions of employment or work.

Contracts for Services Included

- (3) Work performed for another under a contract with the worker, or with another person with respect to the worker's services, constitutes "employment or occupation" for the purposes of this section, even if it does not conform to the normal legal definition of "employment."

Section 9

Equal Pay for Work of Equal Value

(4) For the purposes of this section:

- (a) It is discrimination for an employer to establish or maintain differences in wages between persons employed or occupied in the same establishment, who are performing work of equal value, if the difference is based on a factor or factors that constitute discrimination as defined by this Code.
- (b) In assessing the value of work performed by persons employed or occupied in the same establishment, the criterion to be applied is the composite of the skill, effort and responsibility required in the performance of the work, and the conditions under which the work is performed.
- (c) Separate establishments maintained solely or principally for the purpose of creating or maintaining differences in wages between persons employed or occupied by the same person shall be deemed for the purpose of this section to be a single establishment.

Section 9

- (d) For the purpose of this section, "wages" means any form of remuneration payable for work performed by an individual and includes salaries, commissions, vacation pay, dismissal wages, bonuses, reasonable value for board, rent, housing, lodging, payments in kind, employer contributions to pension funds or plans, long-term disability plans and all forms of health insurance plans, and any other advantage received directly or indirectly from the individual's employer.
- (e) Where a board of adjudication or a court exercising jurisdiction under Part III of this Code is satisfied that associated or related businesses are carried on by more than one corporation, firm or individual, all of whom are under common control or direction, the board or court may, for the purposes of this section, treat the corporations, firms or individuals as if they were a single employer of the persons employed in the associated or related business or operations.
- (f) This subsection shall come into force one year after Royal Assent, or upon Proclamation by the Lieutenant-Governor-in-Council, whichever is sooner.

Section 9

- (g) To ensure its orderly implementation, this subsection shall not become operative immediately upon coming into force, but shall become operative, with respect to each factor of discrimination, on the date or dates determined by the Commission, and published by appropriate means at least six months in advance, provided, however, that the Commission shall not delay the date upon which the entire subsection becomes operative longer than five years from the date this Code receives Royal Assent.

Personal Services in Private Homes

- (5) (a) It is a reasonable requirement or qualification for a person engaged to provide personal services in a private home to possess such personal characteristics as may be required by the person or persons whose home it is for the bona fide purpose of fostering or maintaining a desired environment within the home, provided that there is no discrimination in the terms or conditions of employment or work.

- (b) For the purposes of this subsection:

- (i) "personal services" means work of a domestic, custodial, companionship, personal care, child care, or educational nature, or other work within the home which involves

Section 9

frequent contact or communication with
members of the family who live in the home;
and

- (ii) "private home" means a self-contained
single-family living establishment.

Employment Agencies

- (6) No employment agency or other person who undertakes,
with or without compensation, to:
- (a) procure employees or other workers for others;
 - (b) procure employment or other work for others;
 - (c) test, train or evaluate persons for employment or
other work;
 - (d) refer or recommend persons for employment or
other work; or
 - (e) refer or recommend persons for testing, training
or evaluation for employment or other work;
- shall, when doing so, discriminate within the meaning
of section 6, or abet such discrimination by others,
unless the discrimination is based upon bona fide and
reasonable requirements or qualifications for the
employment or work.

Unions and Associations

- (7) No trade union, employer, employers' organization,
occupational association, professional association or
trade association, and no member of any such union,

Section 9

organization or association, shall:

- (a) discriminate within the meaning of section 6, against any person with respect to the right to membership or any other aspect of membership in any such union, organization or association; or
- (b) negotiate or agree on behalf of any person or persons to an agreement that discriminates within the meaning of section 6 against any person;

unless the discrimination is based upon bona fide and reasonable grounds.

Collective Agreement No Defence

- (8) It is no defence to a breach of this section that the discrimination in question is sanctioned or required by a contract to which the person discriminated against is not a party, or by any collective agreement.

No Reduction of Wages or Termination

- (9) An employer shall not, in order to comply with this section, reduce wages, diminish any other benefit of employment or work, or terminate the employment or work of any person, if the person accepted in good faith the employment or work, or the wage level or other benefit.

Section 10

Discrimination in Contracts

10. Subject to section 11, no person shall discriminate within the meaning of section 6 against any person or group with respect to:
- (a) entering into any contract that is offered or held out to the public generally, or to a section of the public; or
 - (b) any term or condition of such a contract;
- unless bona fide and reasonable cause exists for the discrimination.

Exception for Employee Benefit Plans and Insurance

11. (1) No provision of section 9 or section 10 shall prohibit a distinction that would otherwise constitute discrimination under this Code
- (a) in any employee benefit plan, whether provided for by contract, by collective agreement, or otherwise, or
 - (b) in any life insurance, accident and sickness insurance, or life annuity, whether provided for by contract, by collective agreement, or otherwise,
- if the Commission is satisfied that the distinction is justified in the circumstances.

Section 11

- (2) The Lieutenant-Governor-in-Council may make regulations concerning distinctions that are justified for the purpose of subsection (1), and any such regulations shall be binding on the Commission.

Discrimination in the Rental of Premises

12. (1) Subject to subsection (2), no person shall discriminate within the meaning of section 6 against any person or group with respect to:
- (a) the opportunity to occupy, under lease or other lawful arrangement, any place of dwelling or commercial premises, or
 - (b) any term or condition of lease or occupancy of any place of dwelling or commercial premises, unless bona fide and reasonable cause exists for the discrimination.

Exception

- (2) This section does not apply to the choice of a boarder, roomer or tenant for a building in which the owner or occupier or the family of the owner or occupier reside, unless the part in which the owner, occupier or their families reside is self-contained, and capable of being locked.

Discrimination in the Purchase of Real Property

13. No person shall discriminate within the meaning of section 6 against any person or group in respect to:

Section 13

- (a) the opportunity to purchase or otherwise lawfully acquire any dwelling place, commercial premises or other real property or interest therein, that is advertised or in any way represented as being available for purchase or acquisition, or
- (b) any term or condition of the purchase or other lawful acquisition of any such property or interest, unless bona fide and reasonable cause exists for the discrimination.

Restriction on Application Forms and Enquiries

14. (1) No person shall require or request any applicant for any employment, work, contract, lease, service, accommodation, facility, goods, right, licence, privilege or other benefit, to disclose, in an application form or otherwise, information that could be a basis for discrimination in contravention of this Code, unless bona fide and reasonable cause exists for requiring or requesting such information.

Operation of Section Delayed in Some Cases

- (2) With respect to applications for employment or other work, this section shall come into operation immediately, but with respect to other types of application, it shall come into operation on the date or dates determined by the Commission and published by appropriate means at least six months in advance.

Section 15

Offensive Signs and Statements Prohibited

15. (1) No person shall publish, display, transmit, broadcast, or otherwise communicate, or cause or abet the publication, display, transmission, broadcast, or communication, of any notice, sign, symbol, statement, application form, or other representation, which:
- (a) discriminates, advocates discrimination, or indicates intention to discriminate, against any person or group contrary to this Code;
 - (b) creates an unreasonable risk that a person or group will be exposed to violence or hatred on the basis of any factor listed in section 6(2); or
 - (c) constitutes an unreasonable affront to the human dignity of any person or group on the basis of any factor listed in section 6(2).

Definitions

- (2) For the purposes of this section:

- (a) "unreasonable risk" means a risk that a reasonable person, taking account of both the likelihood of occurrence and the probable severity of consequence, would not inflict on another person in the circumstances; and

Section 15

- (b) "unreasonable affront" means an affront that a reasonable person would regard as intolerable in the circumstances.

Truth a Defence

- (3) It is a defence to a complaint or prosecution for contravention of subsection 1(c) that the meaning conveyed by the notice, sign, symbol, statement, application form, or other representation, is true, but the onus of proving the truth lies on the respondent or accused.

Harassment Prohibited

16. (1) No person shall, in the course of any practice, activity or undertaking to which this Code applies, harass any individual or group on the basis of any factor listed in section 6(2), or permit such harassment by others in any such practice, activity or undertaking for which that person is responsible.

Harassment Defined

- (2) For the purposes of this section, "harassment" means:
- (a) a course of vexatious conduct or comment that is known or ought reasonably to be known to be unwelcome;

Section 16

- 2.
- (b) a sexual solicitation or advance made to an individual by a person in a position to confer or deny any benefit to that individual, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
 - (c) any reprisal or threat of reprisal against an individual for rejecting any sexual solicitation or advance.

Section 17

PART III COMPLIANCE PROCEDURES

Advisory Opinions

17. (1) Any person who contemplates making an application enquiry, or publishing an advertisement, notice of announcement, or engaging in any other conduct that might contravene this Code in any way, may request the Commission to give an advisory opinion as to whether the enquiry, advertisement, notice, announcement or other conduct would contravene the Code, and the Commission shall, after making such enquiries and investigation as it deems necessary, give an advisory opinion in writing.

Revocation or Modification of Opinion

- (2) Where the Commission gives an advisory opinion in accordance with subsection (1) it may revoke or modify the opinion at any time, provided that the Commission gives written notification of the revocation or modification to the person to whom the advisory opinion was given.

Challenge

- (3) Any person affected who wishes to challenge an advisory opinion given by the Commission under sub-

Section 17

section (1) or a modification made under subsection (2) may apply to the Court of Queen's Bench for a declaration as to the validity of the original or modified advisory opinion.

Reliance on Opinion

- (4) Notwithstanding any revocation or modification of an advisory opinion by the Commission, or any declaration by the Court that the opinion is invalid, no act done in reliance on the advisory opinion prior to the receipt of notice as to its revocation, modification, or invalidation, shall constitute a breach of this Code; provided that the facts provided to the Commission by the person seeking the advisory opinion were true in all relevant respects.

Complaints

18. (1) Any person or group having reasonable grounds for believing that any person has denied, abridged, or otherwise restricted a right of any person or group under this Code, or has otherwise contravened a provision of this Code, may file a complaint with the Commission.

Section 18

Terminology

- (2) The person or group filing the complaint shall be known as the "complainant", and the person alleged to have contravened the Code shall be known as the "respondent".

Consent of Alleged Victim

- (3) Where the complainant is not the individual or group against whom the Code is alleged to have been contravened, the Commission may refuse to accept the complaint unless that individual or group consents to the complaint.

Commission May Initiate Complaint

- (4) Where the Commission has reasonable grounds for believing that any person has contravened a provision of this Code it may file a complaint on its own initiative.

Complaint Form

- (5) All complaints under this section shall be filed in the form prescribed by the Commission, and shall not be considered filed until received by the Executive Director or such person as the Executive Director may designate for that purpose.

Section 18

Time Limit for Filing

- (6) Subject to subsection (8), all complaints under this section shall be filed within six months of the alleged contravention or, where a continuing contravention is alleged, within six months of the last alleged instance of continuing contravention.

Time Limit for Serving

- (7) Subject to subsection (8), all complaints under this section shall be served on the respondent within 30 days of being filed with the Commission.

Time Extension

- (8) The Commission or the complainant may apply to the Chief Adjudicator for an extension of the time for either filing or serving a complaint under this section, and the Chief Adjudicator may, if satisfied that it would not cause undue hardship to any party or potential party to do so, extend the time limit for such further period, and upon such terms, as he or she deems just and appropriate in the circumstances.

Amendment

- (9) A complaint may be amended by the complainant at any time before a decision has been rendered by a board of

Section 18

adjudication appointed to hear and decide the complaint, but if the complainant wishes to do so after the six month period referred to in subsection (6) or after an extended period granted under subsection (8), the board of adjudication must first be satisfied that the amendment would not cause undue hardship to any other person.

Respondent's Reply

19. The respondent may file with the Commission a written reply to the complaint, in which case the Commission shall provide the complainant with a copy of the reply.

Commission Shall Investigate

20. The Commission shall, as soon as is reasonably possible, investigate all complaints filed under section 18.

Investigation

21. (1) For the purpose of investigating complaints filed under section 18, or obtaining any other information needed to assist the Commission to carry out its responsibilities under this Code, the Executive Director may authorize anyone to conduct such enquiries as the Executive Director deems appropriate.

Section 21

Powers of Investigators With Warrant

(2) For the purpose of investigating a complaint or complaints filed under section 18, the Executive Director or anyone with the written authorization of the Executive Director, may, upon reasonable belief that it is necessary for the investigation, apply to a judge of the Court of Queen's Bench or of the Provincial Judge's Court, or to the Chief Adjudicator, for a warrant granting:

- (a) entry to any dwelling or other place that appears reasonably to be relevant to the investigation, at all reasonable times, and access to all parts of such dwelling or place that appear reasonably to be relevant to the investigation, at all reasonable times;
- (b) production of or access to all documents and things that appear reasonably to be relevant to the investigation at all reasonable times; and
- (c) the power to remove for a reasonable time any document or documents that appear reasonably to be relevant to the investigation, upon giving a receipt therefore, for the purpose of making copies thereof or taking extracts therefrom, provided that the documents are returned as promptly as possible,

Section 21

and the judge or Chief Adjudicator may issue the warrant requested upon such terms as are deemed just and appropriate, if the judge or Chief Adjudicator is satisfied on the evidence produced, that there are reasonable grounds for believing that the powers sought are necessary for the investigation.

Ex Parte Applications

- (3) A warrant under subsection (2) may be issued without notice to the person whose premises, documents or things are affected where the judge or Chief Adjudicator is satisfied that the circumstances justify doing so.

Time Limit

- (4) Every warrant issued under subsection (2) shall name a date upon which it expires, which shall in no event be later than fifteen days after it is issued.

Assistance of Peace Officers

- (5) Where a warrant is issued under subsection (2) the person or persons to whom it is issued may engage the assistance of one or more peace officers in exercising the powers granted by the warrant.

Section 21

Copies as Evidence

- (6) Copies of or extracts from documents obtained in accordance with subsections (1) and (2), are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents of which they are copies or extracts, if certified as true copies or extracts by the person or persons who made the copies or extracts.

Disposition of Complaints by Commission

22. (1) After the completion of such investigation as it regards as sufficient, the Commission shall deal with complaints filed under section 18 in any of the following ways:
- (a) dismiss the complaint, if not satisfied that there is a reasonable possibility that the complaint has merit;
 - (b) endeavour to effect a settlement of the complaint, and if a settlement satisfactory to the Commission is reached, terminate the proceedings on the terms agreed to;
 - (c) whether or not attempts to affect a settlement of the complaint have been made, request the Chief Adjudicator to appoint a board of adjudication to hear and decide the complaint;

Section 22

- (d) lay an information for contravention of the Code in accordance with section 38.

Chief Adjudicator to Receive Complaint and Reply

- (2) Where the Commission requests the appointment of a board of adjudication in accordance with subsection 1(c), it shall at the same time provide the Chief Adjudicator with a copy of the complaint and any statement of reply filed with it.

Notification of Disposition

- (3) The Commission shall notify the complainant and respondent in writing as soon as possible after disposing of a complaint in any of the ways set out in subsection (1), and, where appropriate, the notice to the complainant shall describe the complainant's rights under section 23.

Notification of Failure to Dispose

- (4) Where the Commission fails to dispose of a complaint in any of the ways referred to in subsection (1) within one year of the date, the complaint was filed, it shall notify the complainant in writing of the complainant's rights under section 23.

Section 22

Non-Compliance with Settlement

- (5) If the Commission determines at any time that a party to the settlement of a complaint has failed substantially to comply with the settlement terms, it may, notwithstanding subsection (1(b)), re-open the proceedings, and, after notifying the complainant and respondent, proceed as if no settlement has been reached.

Right of Complainant to Request Adjudication

23. (1) Where the Commission:

- (a) dismisses a complaint in accordance with section 22(1)(a), or
- (b) terminates proceedings, in accordance with section 22(1)(b), on settlement terms that are not satisfactory to a person whose alleged treatment in contravention of this Code was a subject of the complaint, or
- (c) fails to dispose of a complaint in any of the ways referred to in section 22(1) within one year of the date the complaint was filed,

the complainant may request the Chief Adjudicator to appoint a board of adjudication.

Section 23

Time Limit

- (2) A request to appoint a board of adjudication under subsection (1) shall be made in writing within 30 days of receipt by the complainant of written notification from the Commission in accordance with section 22(3) or section 22(4).

Chief Adjudicator to Receive Complaint and Reply

- (3) Where the complainant requests the appointment of a board of adjudication in accordance with subsection (1), the complainant may request the Commission to provide the Chief Adjudicator with a copy of the complaint or any reply filed with it, and when the Commission receives such a request from the complainant or the Chief Adjudicator it shall comply with the request as soon as possible.

Settlement of No Effect

- (4) Where a request to appoint a board of adjudication is made under subsection (1) any settlement previously reached with regard to the complaint shall be of no force or effect with respect to the complainant.

Board of Adjudication

- (5) Where the appointment of a board of adjudication has been requested under subsection (1), the Chief Adjudi-

Section 23

cator may if he or she believes that justice would be served by doing so, grant the request at any time within 30 days after receiving a copy of the complaint, in which case the board of adjudication shall be selected in the manner provided in section 24.

Board of Adjudication

24. (1) Within 30 days after receiving a request to do so from the Commission under section 22(1), the Chief Adjudicator shall appoint a board of adjudication consisting of one or more members of the panel of human rights adjudicators to hear and decide the complaint.

Members Chosen from Panel

- (2) The person or persons appointed under subsection (1) shall be members of the panel who are willing to serve on the board in question, and may include the Chief Adjudicator.

Section 24

Oath of Impartiality

- (3) Each member of a board of adjudication shall, before assuming her or his duties, make an oath or affirmation in the following form:

"I do solemnly swear (or affirm) that I will faithfully, truly, impartially, and to the best of my knowledge, skill and ability, adjudicate the complaint between _____ and _____ under the Manitoba Code of Human Rights."

Parties to Adjudication

25. (1) The parties to an adjudication under this Code are:

- (a) the Commission;
- (b) the complainant;
- (c) any person or group named in the complaint and alleged to have been dealt with in contravention of this Code;
- (d) the respondent; and
- (e) any other person as may be determined by the board of adjudication at any time.

Adding Parties After Expiry of Time Limit

- (2) Where a board of adjudication is requested to add a party to the adjudication in accordance with subsection 1(e) after the expiry of the six month time

Section 25

limit established by section 18(6), or an extended period granted under section 18(8), it shall do so only when satisfied that no other person would suffer undue hardship, as a result, and it may do so on such terms as it deems just and appropriate in the circumstances.

Carriage of Proceedings by Commission

26. (1) Where the Commission requests the appointment of a board of adjudication the Commission shall have the carriage of the proceedings.

Carriage of Proceedings by Complainant

- (2) Where the complainant requests the appointment of a board of adjudication that person or group shall have the carriage of the proceedings.

Board to Receive Complaint and Reply

27. The Chief Adjudicator shall provide copies of the complaint and any statement of reply to the board of adjudication at the time of its appointment.

Section 28

Notice to Parties

28. (1) A board of adjudication shall, as soon as possible after its appointment, send a written notice to all the parties of whose identity and whereabouts it is or ought reasonably to be aware, stating a date, time and place for its public hearing into the complaint, which shall be at least 10 days after the date of the notice.

Public Notice

- (2) Every board of adjudication shall cause a notice of the date, time, place and subject matter of its public hearing to be published in the Manitoba Gazette and at least one newspaper published in the part of the Province where the public hearing will be held, at least three days prior to the public hearing, and may send the same notice to such other appropriate news media as it may determine.

Parties to be Named

- (3) The notice required by subsection 2 shall include the names of the parties unless the board, at the request of one or more parties, decides that it would be undesirable in the circumstances to disclose the names of the parties before the time of the public hearing.

Section 29

Order to Produce Documents

29. (1) Subject to subsection (2), a board of adjudication may, either simultaneously with the notice under subsection (1) or at any other time, order each party to produce to the board and to all other parties copies of all documents that party intends to rely upon at the public hearing, and such other documents may be relevant to the complaint, within a reasonable time prior to such reliance.

Objection to Produce

- (2) Where a party objects to the production of documents under subsection (1) on grounds the board of adjudication regard as sufficient, the board may make such special order with respect to the documents in question as the board regards as just and appropriate.

Public Hearing

30. (1) Except for sessions at which it meets alone to consider matters relating to organization, procedure, or its interim or final decisions, every board of adjudication shall conduct its inquiry into the complaint by way of public hearing, but the board may, in the interest of fairness to one or more party or witness, prohibit publication of the identity of such person or

Section 30

persons until its final adjudication decision has been rendered.

Participation of Parties

- (2) Every board of adjudication shall give all parties to the adjudication who attend the public hearing full opportunity to present evidence and to make submissions, as well as to be represented by counsel for those purposes.

Recording of Testimony and Submissions

- (3) Oral evidence or submissions need not be recorded in written form, but each board of adjudication shall cause electronic sound recordings to be made of all statements made orally at its public hearings, and shall make such recordings, as well as all relevant documents, available on reasonable conditions for inspection or copying by any party who so requests, and by any court exercising jurisdiction over any aspect of the adjudication. Such recordings and documents need not be retained by a board of adjudication longer than six months after the board of adjudication has reason to believe that all legal proceedings relating to the adjudication have terminated.

Section 30

Interpreter

- (4) Every board of adjudication shall provide appropriate interpretation facilities for any party or witness who is unable, by reason of deafness or other disability, or of lack of familiarity with the language used, to understand the proceedings or any part thereof.

View

- (5) A board of adjudication may, where it appears to be in the interests of justice, direct that the board, the parties, and the counsel or representatives of the parties, shall have a view of any place or thing relevant to the proceedings.

Powers of Board of Adjudication

31. Subject to other provisions of this Code, to regulations made under Section 54, and to the need to abide by fundamental principles of justice, each board of adjudication:

- (a) has exclusive jurisdiction and authority to determine any question of fact, law, or mixed fact and law required to be decided to complete its enquiry into a complaint;
- (b) may make such interim orders, on appropriate terms, as it may deem necessary to facilitate its

Section 31

inquiry or to prevent serious harm occurring prior to its adjudication of the complaint;

- (c) may receive at its public hearing such evidence or other information as it considers relevant and appropriate, whether or not such evidence is given under oath or affirmation, and whether or not it would be admissible in a court of law;
- (d) has the powers, privileges and immunities of a Commissioner under Part V of the Manitoba Evidence Act; and
- (e) may determine its own procedures.

Dismissal of Complaint by Board

32. (1) Where a board of adjudication decides that the contravention of the Code alleged in the complaint has not been established by a preponderance of probability, it shall dismiss the complaint.

Where Complaint Established

- (2) Where a board of adjudication decides that the contravention of the Code alleged in the complaint has been established by a preponderance of probability, it may do any one or more of the following:
- (a) order the party who contravened the Code to do or refrain from doing anything in order to secure

Section 32

compliance with the Code, to rectify any circumstance caused by the contravention, or to make just amends for the contravention;

- (b) order the party who contravened the Code to compensate any party adversely affected by the contravention for any financial losses sustained, expenses incurred or deprivation of benefits caused by reason of the contravention, or such portion of such losses, expenses or deprivations as the board of adjudication shall deem just and appropriate;
- (c) order the party who contravened the Code to pay any party adversely affected by the contravention damages in such amount as the board of adjudication shall deem just and appropriate, as compensation for injury to dignity, feelings or self-respect;
- (d) order the party who contravened the Code to pay any party adversely affected by the contravention a penalty or exemplary damages in such amount as the board of adjudication shall deem just and appropriate to punish the party who contravened the Code for any malice or recklessness involved in the contravention;

Section 32

- (e) order the party who contravened the Code to institute and carry out a plan of affirmative action or other special program of the type referred to in section 45, such special program to be designed by the board of adjudication, or by the Commission under the supervision of the board of adjudication.

Consent Orders

- (3) The board of adjudication may, at any time, with the consent of the parties, make any order to which the parties agree.

Costs

- (4) A board of adjudication may, subject to subsection (5), order any party or parties to the adjudication to pay or contribute to the costs of the adjudication of any other party or parties where it regards such an order just and appropriate in the circumstances, and where it regards a complaint or denial of a complaint as frivolous or vexatious, or believes that the investigation or the adjudication proceedings have been frivolously or vexatiously prolonged, a board may order the party or parties responsible to reimburse

Section 32

the Consolidated Fund for all or part of the cost of holding the adjudication.

Costs Against Complainant

- (5) No order to pay or contribute to costs shall be made against the party or parties making the complaint unless such party or parties have carriage of the proceedings.

Orders in Writing

- (6) All orders and decisions of a board of adjudication shall be made in writing, together with a written statement of the reasons therefore, and copies of all such orders, decisions and reasons shall be provided to the parties and made available for public inspection.

No Expulsion of Incumbents

- (7) No order made under this section shall contain a term:
- (a) requiring the removal of any person from a position of employment or other work if the person accepted the position in good faith, or
 - (b) requiring the expulsion of any occupant of housing accommodation if the occupant obtained possession of the accommodation in good faith.

Section 33

Hearing to be Held within a Reasonable Time

33. (1) Every board of adjudication shall convene its public hearings within a reasonable time of being appointed, and shall complete the hearings and render its decision as soon as reasonably possible.

Delay by Board

- (2) Where a board of adjudication has not rendered a decision within 60 days after its public hearings are completed, the board shall forthwith advise the Chief Adjudicator in writing of the reasons for the delay, and indicate when a decision will be rendered.

Replacement of Board

- (3) At any time after 60 days have elapsed from the date the public hearings of a board of adjudication are completed, or after an unreasonable time has elapsed since the time a board of adjudication was appointed, the Chief Adjudicator may, if the board of adjudication has not rendered a decision, do either or both of the following:
- (a) fix a time within which the board shall render its decision,
 - (b) revoke the appointment of the board of adjudication and appoint a new board of adjudication in accordance with section 24.

Section 33

Where Chief Adjudicator Member of Board

- (4) Where the Chief Adjudicator is a member of a board of adjudication, the Attorney-General shall be substituted for the Chief Adjudicator for the purposes of subsections (2) and (3).

Delivery of Record and Evidence

- (5) If a board of adjudication whose appointment is revoked in accordance with subsection (3) has completed hearing the evidence, the Chief Adjudicator or the Attorney-General may order it to deliver the record of the proceedings and all evidence in its possession to the new board of adjudication, in which case the new board of adjudication shall decide the complaint on the basis of the record and evidence so delivered, together with such arguments as the parties choose to present.

Adjudication Orders Enforceable by Court

34. (1) Subject to subsection (2), where a board of adjudication makes an order in accordance with this Code, the board or any party to the adjudication may file a certified copy of the order in the Court of Queen's Bench and may be enforced as a judgment of the Court.

Section 34

Where Order Under Review

- (2) Where an order of a board of adjudication is under judicial review pursuant to Section 36 it shall not be enforceable under subsection (1) until the final determination of the judicial review, unless the Court of Queen's Bench decides that it would be desirable in the circumstances to grant interim enforcement of the order on such terms as the Court regards as just and appropriate.

Finality of Adjudication

35. Subject to Section 36, every decision of a board of adjudication is final and binding on the parties to the adjudication:

Limited Judicial Review

36. (1) Decisions and orders of a board of adjudication may be reviewed by the Court of Queen's Bench, and set aside or varied where appropriate, if and only if the decision was:
- (a) in excess of jurisdiction;
 - (b) an error of law on the face of the record; or
 - (c) in breach of fundamental principles of justice.

Section 36

Procedure

- (2) Judicial review of a board of adjudication's decisions and orders under subsection (1) may be obtained by such means as the procedures of the Court allow.

Time Limit

- (3) Applications for judicial review under subsection (1) shall be made within the times provided by appropriate procedures of the Court, and in no event later than 30 days after the party seeking judicial review knew or ought reasonably to have known of the decision or order in question.

Appeal

- (4) Appeals from a determination of the Court under subsection (1) shall be in accordance with ordinary appeal procedures in such matters.

Court to Replace Board Where Jurisdiction Lacking

37. In the event that any function or power assigned to a board of adjudication by this Code is held to be beyond the constitutional authority of the Legislature to assign to a board of adjudication, that function or power shall be exerciseable, mutatis mutandis, by a judge of the Court of Queen's Bench.

Section 38

Prosecution

38. (1) Every person who:

- (a) contravenes any provision of this Code;
- (b) deprives, abridges or restricts, or attempts to deprive, abridge or restrict any person or class of persons in the enjoyment of a right under this Code;
- (c) hinders, obstructs, molests or interferes with, or attempts to hinder, obstruct, molest or interfere with the Commission, any person acting under the authority of the Commission, a board of adjudication, or any one else acting under the authority of this Code, in the exercise of their duties or powers under this Code; or
- (d) fails, refuses or neglects to comply with an order of a board of adjudication, or any part thereof, other than an order for the payment of money;

is guilty of an offence and liable on summary conviction:

- (e) if an individual to a fine of not more than \$2,000.00, or imprisonment for not more than six months, or both; or
- (f) if a corporation, partnership, trade union, employers' association, employment agency or occupational association, to a fine of not more than \$10,000.00.

Section 38

2.

Remedial Orders

- (2) In addition to any fine or imprisonment imposed under subsection (1) the judge may make any order a board of adjudication could make under section 32(2), where it is just and appropriate in the circumstances to do so.

Information

- (3) A prosecution for an offence under this Code may be commenced on the information of the Commission or of any person alleging that an offence has been committed under this Code.

Time Limits

- (4) No information may be laid or prosecution commenced,
- (a) with respect to an alleged offence under this Code after the expiration of one year from the date of the alleged offence; or
 - (b) with respect to the failure, refusal, or neglect to comply with an order or part of an order of a board of adjudication, after the expiration of one year from the date of the making of the order; or where the order was reviewed by a court under section 36, after the expiration of one year from the court decision or final disposition of any appeal therefrom; or

Section 38

- (c) with respect to the failure, refusal or neglect to comply with an order or part of an order of a board of adjudication where the board has allowed time for compliance therewith, after the expiration of one year from the date of expiration of the time allowed by the board to comply with the order, or such extended time as may, in accordance with clause (b), be made necessary by judicial review of an order or appeals therefrom.

Interim Injunction

39. Where a complaint has been filed under section 18, or a prosecution has been commenced under section 38, a judge of the Court of Queen's Bench may, on application by way of originating notice of motion by the person or group having carriage of the complaint proceedings or prosecution, grant a temporary injunction restraining any conduct alleged to be in contravention of this Code, or requiring the respondent or accused to comply with this Code in specified respects, until the complaint proceedings or prosecution have been completed.

Section 40

Reprisals

40. (1) No person shall deny or threaten to deny any benefit or inflict or threaten to inflict any detriment to any other person on the ground that the other person:
- (a) has made or may make a complaint under this Code;
 - (b) has laid or may lay an information under this Code;
 - (c) has made or may make a disclosure concerning a matter complained of or to be complained of under this Code;
 - (d) has testified or may testify in a proceeding under this Code;
 - (e) has participated or may participate in any other way in a proceeding under this Code;
 - (f) has complied with, or may comply with, any obligation imposed by this Code; or
 - (g) has refused or may refuse to contravene any provision of this Code.
- (2) Where it is alleged that subsection (1) has been contravened the matter may be dealt with by means of a complaint to the Commission under Section 18, but if an information is laid under Section 38 with respect to the matter, the Commission shall cease to have jurisdiction over it.

Section 41

Onus of Proof

41. In any proceeding under this Code, whether before a board of adjudication or a court, the onus of proving that a provision of this Code has been contravened lies on the person or persons alleging the contravention, except that the onus of proving:

- (a) the existence of a bona fide and reasonable cause for discrimination,
- (b) that a requirement or qualification for employment or work is bona fide and reasonable, and
- (c) the applicability of any other exception to the prohibitions enacted by this Code,

lies on the person or persons alleging such cause, requirement, qualification or exception.

Unions and Associations

42. A complaint may be filed with the Commission under section 18, and a prosecution for an offence under this Code may be brought under section 38, against an employers' organization, trade union, or occupational association in the name of the organization, union or association; and for the purpose of such a complaint or prosecution the organization, union or association shall be deemed to be a person, and any act or thing done or omitted by an officer or agent of such an organization, union, or association, shall be

Section 42

deemed to be an act or thing done or omitted by the
employers' organization, trade union or occupational
association.

Section 43

PART IV

EDUCATION, OUTREACH AND SPECIAL PROGRAMS

Education and Outreach

43. (1) It is the function of the Commission, in addition to its other responsibilities under this Code:
- (a) to forward the principle that all members of the human family are free and equal in dignity and rights, and entitled to be treated on the basis of their individual merits, regardless of their actual or presumed association with any group;
 - (b) to further the principle of equality of opportunity and equality in the exercise of civil and legal rights regardless of status;
 - (c) to disseminate knowledge and promote understanding of the civil and legal rights of residents of Manitoba and to develop, promote and conduct educational programs for that purpose;
 - (d) to develop, promote and conduct educational programs designed to eliminate all forms of discrimination prohibited by this Code;
 - (e) to promote understanding of, acceptance of, and compliance with, this Code.

Section 43

Education Budget

- (2) The Commission shall allocate at least 20% of its annual approved budget to the education and outreach functions outlined in this section.

Scrutiny of Laws

44. The Commission shall maintain a continuing scrutiny of the laws of Manitoba with a view to determining the extent to which they comply with the Universal Declaration of Human Rights, the Canadian Charter of Rights and Freedoms, this Code, and other undertakings and conventions, international and domestic, to which Manitobans are bound, and shall include a report on its activities in this regard in its annual report.

Affirmative Action and Special Programs Defined

45. (1) "Affirmative action or other special program" means a program, plan or arrangement of special treatment for member of any group identified by any of the factors listed in section 6(2), or any other group which, in the opinion of the Commission, has suffered disadvantage as a result of past discrimination, if the special treatment is designed to reduce, eliminate or prevent such disadvantage.

Section 45

Approval by Commission

- (2) A plan of affirmative action or other special program may be carried out, notwithstanding anything in this Code, if it has been examined and approved by the Commission in accordance with subsection (3), but such approval may be withdrawn by the Commission at any time after reasonable notice to the applicant.

Basis of Approval

- (3) The Commission may approve a plan of affirmative action or other special program if it would significantly reduce, eliminate or prevent disadvantage to members of the group in question as a result of past discrimination, without creating undue disadvantage to others.

Recommendations and Assistance

- (4) The Commission may:
 - (a) make recommendations to anyone for or about plans of affirmative action or other special programs;
and
 - (b) on application, provide such assistance in the adoption or carrying out of plans of affirmative action or other special programs as it finds appropriate and possible.

Section 46

Contract Compliance

46. Every contract entered into by Her Majesty in the Right of Manitoba, or by any other governmental authority within the constitutional jurisdiction of the Legislative Assembly, shall be deemed to contain, as terms of the contract:

- (a) a stipulation that no party to the contract shall contravene this Code in carrying out any provisions of the contract, and
- (b) such provisions for plans of affirmative action or other special programs, of the type referred to in section 45, related to the implementation of the contract, as may be required by Regulations made under the authority of this Code.

Special Provisions for Blind: White Canes

47. (1) No person other than a blind person shall carry or use a white cane on any highway or public thoroughfare, or in any public conveyance or other public place.

Definition

- (2) For the purposes of this section, "blind person" means a person who:

Section 47

- (a) is registered as a blind person with the Canadian National Institute for the Blind, a corporation incorporated under the Canada Corporations Act and continued under the Canada Business Corporations Act; or
- (b) is in receipt of an allowance or pension on account of blindness under the authority of federal or provincial legislation, or is blind within the meaning of such legislation.

Section 48

PART V

GENERAL

Crown Bound

48. The Crown, and every servant and agent of the Crown, is bound by this Code.

Paramountcy of Code

49. (1) Subject to subsection (2), this Code shall be paramount over all other statutes and laws of Manitoba, whether general or specific, and whether enacted before or after the enactment of this Code, and whenever any provision of any other statute or law of Manitoba conflicts with any provision of this Code, this Code shall prevail.

Exception

(2) Subject to subsection (3), the paramount status accorded to this Code by subsection (1) shall not apply to any provision of a statute which that statute declares shall operate notwithstanding this Code.

Duration of Declaration

(3) Every declaration made under the authority of subsection (2) may be repealed at any time, and shall

Section 49

cease to have force and effect upon the elapse of five years from its enactment, but a new declaration of the same force and effect as the original declaration may be enacted at any time.

Amendment

- (4) Neither this section nor any provision of it may be repealed or amended, expressly or impliedly, except in the manner and form described in subsection (2), or by a complete repeal of this Code.

Confidentiality of Information

50. (1) Where information has been obtained by the Commission, or by anyone acting on behalf of the Commission, and such information:
- (a) was obtained pursuant to a warrant issued under Section 21(2) or.
 - (b) was obtained subject to an express written condition that it be treated confidentially,
- such information shall not be disclosed by the Commission or anyone acting on behalf of the Commission, to anyone else, except:

Section 50

- (c) to members of the Commission or persons acting under the authority of the Commission for the purpose of exercising their respective responsibilities under this Code;
- (d) to a board of adjudication appointed under this Code to deal with a matter to which such information is relevant;
- (e) under subpoena, to any court dealing with a matter to which such information is relevant, or
- (f) in accordance with the consent of the person whose information it is.

Other Information

- (2) Where information other than that to which subsection (1) applies has been obtained by the Commission or by anyone acting on behalf of the Commission, such information may, for the purposes of exercising the Commission's responsibilities under this Code, be disclosed to such persons, and in such circumstances, as the Executive Director or the Commission may determine, due regard being had for the interests of those who will or might be affected by the disclosure of the information.

Section 50

Disclosure by Board

- (3) All information which a board of adjudication obtains and regards as relevant to any matter under its consideration shall be disclosed at the public hearing and may be used in the reasons for decision, but any duties of confidentiality that attach to such information shall continue to apply except for the purpose of the adjudication and matters that are necessarily incidental to the adjudication.

Cost of Administration

51. The costs of administering this Code shall be paid from the Consolidated Fund with monies authorized by an Act of the Legislature to be so paid.

Technical Defects

52. No proceeding under this Code shall be invalid by reason of any defect in form or any technical irregularity.

Immunity from Liability

53. The Commission, its members, the Executive Director, the Chief Adjudicator, members of boards of adjudication, and any person acting under the authority of the Commission, the Executive Director, the Chief Adjudicator or a board of adjudication, are immune from civil liability for

Section 53

any act or omission occurring in the course of carrying out their respective responsibilities under this Code, provided that the act or omission is in good faith and without negligence.

Regulations

54. The Lieutenant Governor-in-Council may make regulations that are not inconsistent with this Code for the purpose of assisting its administration and implementation.

Repeal of Human Rights Act

55. The Human Rights Act, being Chapter 65 of the Statutes of Manitoba, 1974 (Chapter H175 of the Continuing Consolidation of the Statutes of Manitoba) is, subject to section 56, repealed.

Transitional

56. Notwithstanding anything in this Code, and notwithstanding the repeal of the Human Rights Act by section 55, where any matter, application, proceeding, investigation, or hearing under that Act was commenced before its repeal, that matter, application, proceeding, investigation or hearing shall be continued and completed in accordance with that Act, and shall not be subject to this Code.

Section 57

2

Reference in Continuing Consolidation

57. This Code shall be referred to as chapter _____ in the Continuing Consolidation of the Statutes of Manitoba.

Commencement

58. Subject to section 56, this Code comes into force upon receiving Royal Assent.